IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.17049 of 1998

Dated: October 24, 2006

Between:

Syed Khaja, S/o. Syed Ali, aged about 30 years,
Resident of Door No.11-23-333, L.B. Nagar,
Warangal, Warangal District.

… Petitioner

And

The Sub-divisional Forest Officer and Authorized
Officer, Utnoor, Adilabad District, and others.

… Respondents

Order:

This Writ Petition has been filed seeking Mandamus to declare proceedings dated 15-05-1998 issued by the first respondent and consequential proceedings dated 15-06-1998 as illegal and arbitrary.

2. Petitioner claims to be the owner of the lorry bearing No. ABK 8575. His lorry was seized pursuant to registration of a case under Section 44 (2-A) of the A.P. Forest Act, 1967 ('the Act' for brevity) for alleged unauthorized transportation of teak logs.

Challenging the seizure of the lorry, petitioner is said to have filed a Writ Petition in W.P.No.11709 of 1998 and the same was disposed of by this court directing the first respondent to release the lorry on petitioner furnishing bank guarantee for Rs.55,000/-. It is stated that pursuant to the said order, the first respondent, accepting the bank guarantee furnished by the petitioner, has passed an order dated 14-05-1998 releasing the vehicle in favour of the petitioner; but, when the petitioner had gone to take delivery of the lorry, he was served with the order dated 15-06-1998, impugned herein, whereby the bank guarantee furnished by the petitioner was forfeited.

3. The grievance of the petitioner is that he had neither made a request to compound the offence nor did he sign the compounding statement and in the absence of the same, the respondents cannot proceed in compounding the offence and encash the bank guarantee furnished by him towards release of the lorry.

4. Against the order passed by the first respondent,
the Sub-divisional Forest Officer dated 15-06-1998; petitioner has a remedy of appeal to the appellate authority under Rule 10 of the Andhra Pradesh Forest Offence (Compounding Prosecution) Rules, 1969.

5. As much as the petitioner has a remedy of appeal against the order passed by the Sub-divisional Forest Officer, there is no special reason to entertain this Writ Petition bypassing the remedy of appeal provided under the Rules.

6. In the circumstances, without going into the merits of the case,
I deem it appropriate to dispose of the Writ Petition permitting the petitioner to file an appeal before the appellate authority against the

order dated 15-05-1998 issued by the Sub-divisional Forest Officer, Adilabad District, the first respondent herein, within a period of six weeks from today. On such appeal being filed, the appellate authority shall consider the same and pass appropriate orders on its own merits, without reference to limitation, after issuing notice to the affected parties.

7. Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

October 24, 2006
MRR